INTERNATIONAL CRIMINAL COURT

Article 98

Agreement between the
UNITED STATES OF AMERICA
and KIRIBATI

Signed at Tarawa March 4, 2004

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

". . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

KIRIBATI

International Criminal Court: Article 98

Agreement signed at Tarawa March 4, 2004;
Entered into force March 4, 2004.

Agreement between the Government of the United States of America and the Government of the Republic of Kiribati regarding the surrender of persons to the International Criminal Court

The Government of the United States of America and the Government of the Republic of Kiribati, hereinafter "the Parties,"

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Considering that the Parties have each expressed their intention to investigate and to prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by their officials, employees, military personnel or other nationals,

Bearing in mind Article 98 of the Rome Statute,

Hereby agree as follows:

1. For purposes of this agreement, "persons" are current or former Government officials, employees (including contractors), or military personnel or nationals of one Party.

2. Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,

(a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of the Republic of Kiribati to a third country, the Government of the United States of America will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent the express consent of the Government of the Republic of Kiribati.

4. When the Government of the Republic of Kiribati extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Republic of Kiribati will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the Government of the United States of America.

5. Each party agrees, subject to its international legal obligations, not to knowingly facilitate, consent to, or cooperate with efforts by any third party or country to effect the extradition, surrender, or transfer of a person of the other Party to the International Criminal Court.

This Agreement shall enter into force upon signature. It will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

Done at Tarawa on the 4th day of March, 2004.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

HUGH M. NEIGHBOUR, III
DEPUTY CHIEF OF MISSION
UNITED STATES EMBASSY

FOR THE GOVERNMENT OF THE REPUBLIC OF KIRIBATI

T. BIRIBO
PERMANENT SECRETARY
MINISTRY OF FOREIGN AFFAIRS AND IMMIGRATION